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09/309,130	05/10/1999	MICHAEL E. RAKAUSKAS	28572/32531A	7131

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EXAMINER

KRUER, KEVIN R

ART UNIT

PAPER NUMBER

1773

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15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/309,130

Applicant(s)

RAKAUSKAS

Examiner

Kevin R Kruer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 06 November 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 14 and 17-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 14,54 and 117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Claim Objections***

Claim 50 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 50 states that the veneer is present on only one side of the core. However, claim 37 already contains that limitation.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14, 17, 24, 26-29, 36-41, 48, and 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baymiller (US 3,816,236) in view of McClain (US 1,299,747). Baymiller teaches a veneered or laminated board structure comprising a wood core, a crossbanding material and a wood veneer (abstract). The core stock may comprise, for example, lumber or chip board (col 1, line 13). The crossbanding material comprises a resin-saturated sheet. The layers are assembled within a press, and subjected to pressure and elevated temperature in order to cure the resin (col 2,

lines 28-38). The laminate has considerable dimensional stability and resists warping and cracking of the veneer.

Baymiller teaches a laminate comprising a crossbanding material between a wood core and veneer wherein the crossband comprises a felt material saturated with urea formaldehyde. Baymiller preferred crossband does not comprise a resin saturated kraft paper. However, Baymiller teaches that International Paper Company has made a urea formaldehyde resin saturated kraft paper sheet that could be used for crossbanding (col 1, lines 30-37). The courts have held the selection of a known material based on its suitability for its intended use supported a prima facie case of obviousness. *Sinclair & Carroll Co. V. Interchemical Corp.* 325 U.S. 327, 65 USPQ 297 (1945). Therefore, the examiner takes the position that it would have been obvious to one of ordinary skill in the art to utilize the crossbanding material made by International Paper Company in place of the crossbanding material taught in Baymiller.

Baymiller also does not teach that a saturated resin sheet should be applied to the non-veneered surface of the substrate. However, McClain teaches that saturated paper products may be applied to the non-veneered surface of a wood laminate in order to provide moisture, oil and acid resistance (col 4, lines 115+). The sheets are impregnated with a suitable adhesive (col 3, line 64). Therefore, it would have been obvious to one of ordinary skill in the art to apply a resin saturated paper sheet to the non-veneered surface of the laminate taught in Baymiller in order to provide oil, water, and acid resistance.

The limitations of claims 26-29, 38-41, 52, and 54 are process limitations. Process limitations do not patentably distinguish a product claim from a product taught in the prior art unless applicant can show that the method of making the claimed product

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inherently results in a product that is different from the teachings of the prior art. In the present application, no such showing has been made.

3. Claims 23, 35, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baymiller (US 3,816,236) in view of McClain (US 1,299,747), as applied to claims 14, 17, 24, 26-29, 36-41, 48, and 50-54 above, and further in view of Guyette (US 5,425,986). Baymiller in view of McClain is relied upon as above, but none of the references teach that the resin coated paper sheet should have a basis weight of about 40 pounds per ream to about 100 pounds per ream. However, Guyette teaches a high-pressure laminate comprising a fiberboard core, and intermediate resin impregnated paper sheet or lamina, and a decorative paper or lamina (abstract). Guyette teaches that the intermediate resin impregnated paper should comprise a kraft paper having a weight of 25 to about 400 grams per square meter (col 3, lines 53-58). It would have been obvious to one of ordinary skill in the art to utilize a kraft paper with a weight of 25-400 grams per square meter as the resin coated paper of the laminate taught by Baymiller, because Guyette teaches that kraft paper with such weights are porous enough and strong enough to be used as intermediate resin impregnated sheets in wood composite laminates.

1. Claims 22, 34, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baymiller (US 3,816,236) in view of McClain (US 1,299,747), as applied to claims 14, 17, 24, 26-29, 36-41, 48, and 50-54 above, and further in view of Guyette (US 5,425,986). Baymiller in view of McClain is relied upon as above, but none of the references teaches that the resin should comprise about 45-65wt.% of the resin-saturated sheet. However, Guyette teaches that the resin in the resin impregnated intermediate sheet should comprise 5 to 75 percent by weight of the resin impregnated intermediate sheet. Therefore, it would have been obvious to one of ordinary skill in the

art to utilize a resin-saturated sheet comprising 5-75wt.% resin because Guyette teaches that sheets comprising 5-75wt% resin exhibit sufficient adhesion to the surrounding substrates when utilized as intermediate layers in wood composite laminates.

4. Claims 18-21, 30-33, and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baymiller (US 3,816,236) in view of McClain (US 1,299,747), as applied to claims 14, 17, 24, 26-29, 36-41, 48, and 50-54 above, and further in view of Brooker et al. (US 5,723,221). Baymiller in view of McClain is relied upon as above, but none of the references teach that the resin should comprise about 98wt% melamine. However, Brooker teaches that melamine aldehyde and urea formaldehyde resins are used interchangeably as adhesives to saturate paper sheets utilized in high or low-pressure processes (col 3, lines 3+). Brooker further teaches that a variety of fillers may be added to the adhesive (col 2, lines 8+). The courts have held that substitution of equivalents requires no express motivation as long as the prior art recognizes the equivalency. *In re Fount* 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *Graver Tank & Mfg. Co. Inc. v. Linde Air Products Co.* 84 USPQ 328 (USSC 1950). Therefore, the examiner takes the position that it would have been obvious to one of ordinary skill in the art to utilize a resin composition comprising 98wt% melamine and 2wt% other fillers in place of the urea formaldehyde resin taught in Baymiller. Furthermore, it would have been obvious to one of ordinary skill in the art to utilize a resin composition comprising 98wt% melamine and 2wt% other fillers as the adhesive taught in McClain because Brooker teaches such a composition useful as adhesives to saturate paper sheets utilized in high or low pressure processes.

Baymiller also does not admit that the adhesive resin may be a melamine/urea blend. However, Brooker teaches that urea-formaldehyde may be advantageously

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added discreetly or in combination with the melamine resin for use as an adhesive in both high and low pressure decorative laminates (col 3, lines 3+). Thus, the examiner takes the position that it would have been obvious to one of ordinary skill in the art to blend urea and melamine resins in such a way as to advantageously affect the adhesion of the laminate. The courts have held that when the general conditions of a claim are known in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. *In re Aller*, 220 f.2d 456, 105 USPQ 233, 235, (CCPA 1955). Therefore, the examiner takes the position that it would have been obvious to one of ordinary skill in the art to utilize the melamine and urea in any combination in order to optimize adhesion, reduce shrink, and optimize processing time and costs.

1. Claims 25 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baymiller (US 3,816,236) in view McClain (US 1,299,747), as applied to claims 14, 17, 24, 26-29, 36-41, 48, and 50-54 above. Baymiller in view of McClain and Hsu is relied upon as above. None of the references teach the preferred moisture content of the veneer. However, it is well known in the art to decrease the moisture content of a wood veneer to prevent warping. Further, the lower the moisture content is decreased, the more expensive the manufacturing costs. Section 2144.05(b) of the MPEP states: a difference in concentrations or temperatures will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. '{W}here the general conditions of a claim are disclosed in the prior art it is not inventive to discover the optimum or workable ranges by routine experimentation.' *In re Aller*, 220, F.2nd 454, 105 USPQ 233, 235 (CCPA 1955).

Therefore, it would have been obvious to one of ordinary skill in the art to optimize the moisture content of the veneer in order to minimize warping and costs.

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5. Claims 14, 17, 24, 26-29, 36-41, 48, and 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molloy et al (US 3,916,059) in view of Baymiller (US 3,816,236). Molloy teaches a laminated panel comprising a core, two crossbanding sheets, and a facing sheet (abstract). The core may comprise wood, lumber, or chips (col 3, line 58). The back sheet of the laminate may comprise a crossbanding sheet (col 3, lines 7 and 8). The layers of the laminate are placed in a press under heat and pressure to cure the resin in the crossbanding sheet (col 2, lines 15-24).

Molloy teaches a laminate comprising a crossbanding material between a wood core and veneer, but does not does not comprise a resin saturated kraft paper. However, Baymiller teaches that International Paper Company has made a urea formaldehyde resin saturated kraft paper sheet that could be used for crossbanding (col 1, lines 30-37). The courts have held the selection of a known material based on its suitability for its intended use supported a prima facie case of obviousness. *Sinclair & Carroll Co. V. Interchemical Corp.* 325 U.S. 327, 65 USPQ 297 (1945). Therefore, the examiner takes the position that it would have been obvious to one of ordinary skill in the art to utilize the crossbanding material made by International Paper Company in place of the crossbanding material taught in Molloy.

The limitations of claims 26-29, 38-41, 52, and 54 are process limitations. Process limitations do not patentably distinguish a product claim from a product taught in the prior art unless applicant can show that the method of making the claimed product inherently results in a product that is different from the teachings of the prior art. In the present application, no such showing has been made.

6. Claims 23, 35, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molloy et al (US 3,916,059) in view of Baymiller (US 3,816,236), as



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applied to claims 14, 17, 24, 26-29, 36-41, 48, and 50-54 above, and further in view of Guyette (US 5,425,986). Molloy in view of Baymiller is relied upon as above, but none of the references teach that the resin coated paper sheet should have a basis weight of about 40 pounds per ream to about 100 pounds per ream. However, Guyette teaches a high-pressure laminate comprising a fiberboard core, and intermediate resin impregnated paper sheet or lamina, and a decorative paper or lamina (abstract).

Guyette teaches that the intermediate resin impregnated paper should comprise a kraft paper having a weight of 25 to about 400 grams per square meter (col 3, lines 53-58). It would have been obvious to one of ordinary skill in the art to utilize a kraft paper with a weight of 25-400 grams per square meter as the resin coated paper of the laminate taught by Baymiller, because Guyette teaches that kraft paper with such weights are porous enough and strong enough to be used as intermediate resin impregnated sheets in wood composite laminates.

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7. Claims 18-21, 30-33, and 42-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molloy et al (US 3,916,059) in view of Baymiller (US 3,816,236), as applied to claims 14, 17, 24, 26-29, 36-41, 48, and 50-54 above, and further in view of Brooker et al. (US 5,723,221). Molloy in view of Baymiller is relied upon as above, but none of the references teach that the resin should comprise about 98wt% melamine. However, Brooker teaches that melamine aldehyde and urea formaldehyde resins are used interchangeably as adhesives to saturate paper sheets utilized in high or low pressure processes (col 3, lines 3+). Brooker further teaches that a variety of fillers may be added to the adhesive (col 2, lines 8+). The courts have held that substitution of equivalents requires no express motivation as long as the prior art recognizes the equivalency. *In re Fount* 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *Graver Tank & Mfg. Co. Inc. v. Linde Air Products Co.* 84 USPQ 328 (USSC 1950). Therefore, the examiner takes the position that it would have been obvious to one of ordinary skill in the art to utilize a resin composition comprising 98wt% melamine and 2wt% other fillers in place of the urea formaldehyde resin taught in Baymiller.

Molloy also does not admit that the adhesive resin may be a melamine/urea blend. However, Brooker teaches that urea-formaldehyde may be advantageously added discreetly or in combination with the melamine resin for use as an adhesive in both high and low pressure decorative laminates (col 3, lines 3+). Thus, the examiner takes the position that it would have been obvious to one of ordinary skill in the art to blend urea and melamine resins in such a way as to advantageously affect the adhesion of the laminate. The courts have held that when the general conditions of a claim are known in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation. *In re Aller*, 220 f.2d 456, 105 USPQ 233, 235,

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(CCPA 1955). Therefore, the examiner takes the position that it would have been obvious to one of ordinary skill in the art to utilize the melamine and urea in any combination in order to optimize adhesion, reduce shrink, and optimize processing time and costs.

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a difference in concentrations or temperatures will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. '{W}here the general conditions of a claim are disclosed in the prior art it is not inventive to discover the optimum or workable ranges by routine experimentation.' In re Aller, 220, F.2nd 454, 105 USPQ 233, 235 (CCPA 1955).

Therefore, it would have been obvious to one of ordinary skill in the art to optimize the moisture content of the veneer in order to minimize warping and costs.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 14 and 17-54 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R. Kruer whose telephone number is (703) 305-0025. The examiner can normally be reached on Monday-Friday from 7:00 a.m. to 4:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver, can be reached on (703) 308-1261. The fax phone number for the organization where this application or proceeding is assigned is (703)305-5436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.



Kevin R. Kruer  
Patent Examiner



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